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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

LAWRENCE ROMERO,

Defendant and Appellant.

E058691

(Super.Ct.No. FVA012334)

OPINION

APPEAL from the Superior Court of San Bernardino County. Michael A. Smith, Judge. (Retired judge of the San Bernardino Super. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.) Affirmed.

Neil Auwarter, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Lawrence Romero appeals after the trial court denied his petition for resentencing under Penal Code section 1170.126, known as the Three Strikes

Reform Act of 2012 (Prop. 36, as approved by voters, Gen. Elec. (Nov. 7, 2012)).¹

Defendant filed a notice of appeal on May 8, 2013. We affirm.

PROCEDURAL BACKGROUND

On October 5, 2000, defendant was convicted of petty theft with a prior. (§ 666.) The trial court found that defendant had two prior strike convictions. (§§ 1170.12, subds. (a)-(d), 667, subds. (b)-(i).) On July 9, 2001, the court sentenced him to state prison for 25 years to life.

On December 28, 2012, defendant filed an in pro. per. petition for resentencing under section 1170.126. The court denied the petition on the ground that defendant's prior strike conviction for committing a lewd act on a child (§ 288, subd. (a)) made him ineligible for resentencing under section 1170.126, subdivision (e)(3).

ANALYSIS

After the notice of appeal was filed, this court appointed counsel to represent defendant. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738 [87 S.Ct. 1396, 18 L.Ed.2d 493], setting forth a statement of the case, a brief statement of the facts, and identifying two potential arguable issues: whether defendant was previously convicted of the offense of committing a lewd act on a child (§ 288, subd. (a)), and whether such conviction made him ineligible for resentencing under section 1170.126.

¹ All further statutory references will be to the Penal Code, unless otherwise noted.

Defendant was offered an opportunity to file a personal supplemental brief, which he has not done. Under *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record and find no arguable issues.

DISPOSITION

The judgment is affirmed.

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HOLLENHORST
Acting P. J.

We concur:

KING
J.

MILLER
J.